

MINUTES OF THE CITIZENS' CHARTER REVIEW COMMISSION
FEBRUARY 1, 2012

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Brian Bochner
Terry Childers, Vice Chair
Chuck Ellison
Patrick Gendron, absent
Paul Greer
Gary Halter, absent
Tony Jones, absent
Lynn McIlhaney, absent
Buck Prewitt

City Staff:

Carla Robinson, City Attorney
Sherry Mashburn, City Secretary

1. Call to Order and Announce a Quorum is Present

With a quorum present, the Citizens' Charter Review Commission was called to order by Vice Chair Terry Childers at 4:00 p.m. on Wednesday, February 1, 2012 in the City Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77842.

2. Hear Visitors

Julie Schultz, Councilmember, expressed her interest in the Conflict of Interest. As a business person, she is 50% owner of Schultz Engineering. She did not look at the City charter in depth when she ran, but she did visit with her attorney. An issue has come up with existing clients, and there could be a conflict of interest when her husband is working with a client on a specific project in College Station. The way the charter reads now, that is an indirect conflict of interest. There never will be an instance when Schultz Engineering will have a direct conflict because Schulz Engineering will not perform work under contract to the City. The term "indirectly" in the charter is extremely vague. She feels the intent of the charter was to prevent a person from coming on to Council and obtaining new business. She has been recusing herself whenever clients come before the Council. The idea that a business person cannot be on the Council representing her as a small business owner is a problem. There are a lot of business persons in the community that have not run because of the stringent nature of the charter.

3. Presentation, possible action, and discussion on minutes for January 18, 2012 Regular Meeting.

MOTION: Upon a motion made by Commissioner Ellison and a second by Commissioner Bochner, the Commission voted five (5) for and none (0) opposed, to approve the minutes of the January 18, 2012 Regular Meeting, as submitted. The motion carried unanimously.

4. Presentation, possible action, and discussion on Article XII, Section 115 Personal Interest within the City Charter.

Commissioner Ellison expressed concern about the chilling effect of this provision on business people in the community holding any office because of the prohibition against any officer having a direct or indirect interest in a contract with the city. At its extreme, anyone who is employed by one who sells a hamburger to the city is prohibited from being an officer of the city. He expressed that the benefit of this charter provision is mitigated by (i) the state and federal laws (e.g. Sections 171 and 176 of the Texas Local Government Code) that provide protection against officeholder abuse, and (ii) voter oversight, among other things. The burden of this charter provision is unmitigated because no matter (i) how remote or small the "interest in a contact with the city" is, (ii) how ethical and law abiding one is, or (iii) what protective processes are in place, a person is prohibited from serving the city if he or she has an indirect interest in a contract with the city. There have been several people who have decided not to run because of the provision. Noting that only two of the peer cities have similar provisions while the others rely on state and federal protections, he suggested that the provision disenfranchises the business community and weakens the democratic process as a matter of public policy.

MOTION: Upon a motion made by Commissioner Ellison and a second by Commissioner Prewitt, the Commission voted two (2) for and three (3) opposed, with Commissioners Bochner, Childers, and Greer voting against, to strike Section 115 in its entirety. The motion failed.

5. Presentation, possible action, and discussion on Article III, Section 21 Vacancies within the City Charter.

Commission consensus was to not re-open this item since the language was approved at the July 6, 2011 regular meeting.

6. Presentation, possible action, and discussion on Article XI Franchises and Public Utilities within the City Charter.

The Commission requested that Jason Stuebe provide a presentation on this Article at the next meeting. Staff was also requested to highlight areas of concerns and provide suggested changes.

7. Presentation, possible action, and discussion on amending the attached Plan of Work, any items on the Plan of Work, and possible criteria to be used in order to add items to the Plan of Work.

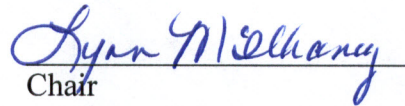
The Commission requested that Initiative, Referendum and Recall be moved up on the Plan of Work to begin discussion at the February 15 meeting.

8. Discussion and possible action on future agenda items.

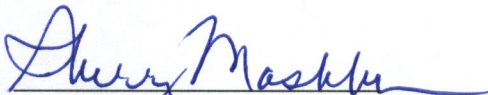
There were no future agenda items.

9. Adjournment

MOTION: Upon a motion made by Commissioner Prewitt and a second by Commissioner Bochner, the Commission voted five (5) for and none (0) opposed, to adjourn the regular meeting of the Citizens' Charter Review Advisory Commission on Wednesday, February 1, 2012 at 5:21p.m. The motion carried unanimously.


Chair

ATTEST:


City Secretary